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THE GOA, DAMAN AND DIU (BANKS RECONSTRUCTION) REGULATION, 1962

NO. II OF 1962

Promulgated by the President in the Thirteenth Year of the Republic of India.

A Regulation to provide for the reconstruction of the branches of the Banco Nacional Ultramarino in Goa, Daman and Diu and of the Caixa Economica de Goa in the interests of the general public.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTER I

PRELIMINARY

1. (1) This Regulation may be called the Goa, Daman and Diu **Short title and commencement.**
(Banks Reconstruction) Regulation, 1962.

(2) It shall be deemed to have come into force on the 20th December, 1961.

2. In this Regulation, unless the context otherwise requires,— **Definitions.**

(a) "appointed day" means the 20th December, 1961;

(b) "Banks" mean—

(i) the branches of the Banco Nacional Ultramarino in Goa, Daman and Diu, and

(ii) the Caixa Economica de Goa;

(c) "Banco Nacional Ultramarino" means the institution established and working under that name with its head office in Lisbon;

(d) "Caixa Economica de Goa" means the institution established and working under that name with its head office at Panjim in Goa;

(e) "Custodian" means a Custodian appointed under section 4 and includes any person appointed as Custodian by the Administrator of Goa, Daman and Diu before the promulgation of this Regulation;

(f) "Goa, Daman and Diu" means the Union territory of Goa, Daman and Diu;

(g) "pay" includes emoluments of every description expressed in terms of money but does not include any bonus or any contribution to a pension fund or to a provident fund;

(h) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934.

2 of 1934.

Reconstruction of Banks in public interest.

3. In view of the closure of the Banks and the transfer of a substantial portion of their assets out of India on or about the appointed day and the difficulties experienced by depositors, the Banks shall, as from that day, be reconstructed in the interests of the general public in accordance with the provisions hereinafter contained.

Appointment of Custodian.

4. (1) The Central Government may appoint one or more Custodians to take charge of the Banks.

(2) A Custodian appointed under sub-section (1) shall hold office for such period and shall receive such salary and other allowances as may be determined by the Central Government.

(3) The Central Government may, for the purposes of securing the proper management of the affairs of the Banks, give to the Custodian such directions not inconsistent with this Regulation as it may deem fit.

(4) Subject to the provisions of sub-section (3), the Custodian shall exercise all such powers and do all such acts or things as were exercised or done by or on behalf of the Banks or as may be necessary for the purposes of this Regulation.

Vesting of assets, etc., of Banks in the Custodian.

5. (1) As from the appointed day, all properties and assets, all rights, powers, claims, demands, interests, authorities and privileges and all obligations and liabilities of the Banks shall, subject to the other provisions of this Regulation, stand transferred to and vest in the Custodian.

(2) Without prejudice to the generality of the provisions of subsection (1), all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which either of the Banks is a party or which are in favour of either of the Banks shall be effective against or in favour of the Custodian and may be enforced or acted upon as fully and effectually as if he had been a party thereto or as if they had been issued in his favour.

(3) If, on the appointed day, any suit, appeal or other legal proceeding of whatever nature by or against either of the Banks is pending, the same shall not abate, or be discontinued or be in any way prejudicially affected, but may, subject to the other provisions of this Regulation, be continued, prosecuted and enforced by or against the Custodian.

(4) Notwithstanding anything contained in this section, the assets and liabilities of the branches of the Banco Nacional Ultramarino in Goa, Daman and Diu in respect of any currency notes issued by the former Portuguese administration in India or the Banco Nacional Ultramarino exclusively for circulation in Goa, Daman and Diu shall be transferred to and vest in the Central Government.

6. (1) For the purposes of enabling the Custodian to discharge the obligations imposed on him under this Regulation, the Central Government may, after due appropriation made by Parliament by law in this behalf, grant to the Custodian such loans on account of either of the Banks as it may deem fit.

Loans by
Central
Government.

(2) The terms and conditions on which such loans may be granted shall be determined by the Central Government from time to time, and it shall be competent for the Central Government, if it is necessary so to do, to adjust any loan or any portion thereof against any subsidy which the Central Government may, after due appropriation made by Parliament by law in this behalf, grant to the Custodian for discharging the liabilities and obligations of the Banks or of either of them.

CHAPTER II

RECONSTRUCTION OF BRANCHES OF BANCO NACIONAL ULTRAMARINO

7. (1) The branches of the Banco Nacional Ultramarino shall remain closed until such date as may be notified in this behalf by the Custodian and no documents or assets in the custody of the said branches shall be released except to the extent and on the terms and conditions authorised by the Custodian.

Regulation
of business
of the
branches of
the Banco
Nacional
Ultramarino.

(2) Nothing in sub-section (1) shall prohibit the Custodian from realising at any time after the appointed day any debts or other amounts due to the said branches including any debts or other amounts due from the head office of the Banco Nacional Ultramarino.

Special provisions in relation to suits by or against the Custodian.

8. (1) If for the prosecution of any suit, appeal or other legal proceeding by the Custodian in any court it is necessary to produce any document or other particulars and the said document or particulars are proved to the satisfaction of the court to have been removed to Portugal or to any of the territories under Portuguese control, it shall be lawful for the court, in disposing of the suit, appeal or other legal proceeding, to base its decree or decision on the books of account of the branches of the Banco Nacional Ultramarino in Goa, Daman and Diu and on the evidence which can be otherwise produced.

(2) Any suit, appeal or other legal proceeding may be instituted or filed by or against the Custodian at any time before the 1st day of April, 1963, if the period of limitation prescribed for such suit, appeal or other proceeding has expired not earlier than the appointed day and not later than the 31st day of December, 1962.

Provision for the discharge of liabilities.

9. As from the date notified by the Custodian under sub-section (1) of section 7, payments shall be made against the liabilities of the branches of the Banco Nacional Ultramarino that stand transferred to and vest in the Custodian under sub-section (1) of section 5 in accordance with the provisions of this Regulation, but the Custodian or any officer subordinate to him shall not be competent to receive at any of the said branches any fresh deposits of money from the public repayable on demand or otherwise and withdrawable by cheque, draft order or otherwise.

Liabilities to be discharged in full.

10. On or after the date notified under sub-section (1) of section 7, the following liabilities of the branches of the Banco Nacional Ultramarino shall, subject to the directions, if any, issued by the Central Government in this behalf, be paid or discharged in full, namely:—

(i) all revenues, taxes, cesses and rates due from the said branches to the Central Government or to a local authority in Goa, Daman and Diu;

(ii) all wages or salary (including wages payable for time or piece-work and salary earned wholly or in part by way of commission) of any employee;

(iii) the amounts of any drafts, mail transfers, telegraphic transfers, cheques or pay orders issued by the said branches, the proceeds of any bills or cheques received by the said branches for collection before, on or after the appointed day and remaining unpaid;

(iv) the amounts of any drafts, mail transfers, telegraphic transfers, cheques or pay orders issued to or drawn on the said branches before, on or after the appointed day and remaining unpaid;

(v) any liabilities of the nature of trust liabilities other than those specified in clause (iii) or clause (iv);

(vi) all liabilities, including the liabilities on account of deposits, due to any person:

Provided that—

(a) no amount shall be payable under this section to a Portuguese national or to any person resident in any of the territories under Portuguese control unless such payment has been specifically authorised by the Central Government;

(b) no payment shall be made under this section to the Caixa Economica de Goa, or the Junta de Comercio Externo or any organisation which on the appointed day was financed wholly by the former Portuguese administration in India;

(c) if there is any doubt whether any liability is of the nature of a trust liability for the purposes of this Regulation, the Custodian shall refer the matter to the Reserve Bank, whose decision shall be final and binding on the parties concerned; and

(d) save as otherwise provided in section 13, no payment shall be made on account of any pension which, having been sanctioned, was payable immediately before the appointed day and was the liability of the Banco Nacional Ultramarino or the branches thereof in Goa, Daman and Diu or on account of any retirement benefit to any of the employees of the said bank or the said branches.

11. The liabilities, including deposit liabilities, which are not payable in accordance with the provisions of section 10 shall be readjusted in the manner indicated below, namely:—

Discharge of
other liabilities.

(a) in respect of the Government, every person including the Caixa Economica de Goa and the Junta de Comercio Externo and every organisation financed wholly by the former Portuguese administration in India, there shall be opened a collection account into which shall be credited all the amounts due to the Government or such person or organisation, as the case may be, as on the appointed day;

(b) payment shall be made against the said accounts as and when the assets recoverable from the head office or other offices

of the Banco Nacional Ultramarino or from the Portuguese Government are realised:

Provided that no payment shall be made under this section to a Portuguese national or to any person resident in any of the territories under Portuguese control, unless such payment has been specifically authorised by the Central Government or unless the assets recoverable from the head office or other offices of the Banco Nacional Ultramarino or from the Portuguese Government, as the case may be, have been recovered or realised in full:

Provided further that if the amounts available for payment at any time are not adequate, payments shall be made *pro rata* in respect of all the accounts for which payments are to be made.

Payment to
be made
from speci-
fied branch.

12. The payments to be made under section 10 and the payments to be made from the collection accounts to be opened under section 11, and any other payments made by the Custodian shall be made at the Panjim branch of the Banco Nacional Ultramarino or any other branch specified in this behalf by the Custodian.

Payment of
pension,
etc., due to
employees.

13. (1) The Custodian shall, if authorised by the Central Government so to do, pay the pension or other retirement benefit due to any person, being an Indian citizen, who immediately before the appointed day was in receipt of any such pension or benefit from the Banco Nacional Ultramarino or its branches in Goa, Daman and Diu, and shall in the case of an employee, being an Indian citizen, whose services are deemed to have been terminated under section 16, determine, with the approval of the Central Government, the retirement benefits which may be due to that person and make payments accordingly:

Provided that if no pension or other benefit is admissible to any employee whose services are deemed to have been terminated under section 16, there shall be paid to him a gratuity at the rate of fifteen days' pay for every year of service, subject to a maximum of one thousand rupees.

(2) If any provident, superannuation, gratuity or other fund has been maintained at the head office of the Banco Nacional Ultramarino for the benefit of the employees or if the amount of any pension or other retirement benefit is due from the said office to the said employees, the Custodian shall be entitled to recover the assets available in that fund or the amount due from the said office, as the case may be, and to set off any amount so recovered against the payments made under sub-section (1) provided that if the amount recovered is in excess of the sum total of the payments made under sub-section (1), the Custodian shall determine the share from out of such excess

which may be due to the several employees and shall distribute that share to them or to their nominees or heirs.

14. The Central Government shall, on the expiry of twelve years, and may, at any time before such expiry, direct that the books of account and affairs of the branches of the Banco Nacional Ultramarino in Goa, Daman and Diu shall be inspected by the Reserve Bank or by such other agency as the Central Government may determine and that a report on the basis of such inspection shall be made and the Central Government may, after considering the said report, direct the winding up of the affairs of the said branches on such terms and conditions to be specified by that Government which shall, as far as practicable, be in consonance with the provisions relating to winding up of a banking company under the Banking Companies Act, 1949.

Final provision in respect of assets and liabilities.

10 of 1949.

15. No claim for interest on any amounts due to be paid or any liabilities remaining to be discharged as on the appointed day shall as from that day lie against the branches of the Banco Nacional Ultramarino in Goa, Daman and Diu or against the Custodian.

Interest not to be payable after appointed day.

16. Notwithstanding anything to the contrary contained in any contract of service or any other instrument, the services of the employees of the branches of the Banco Nacional Ultramarino in Goa, Daman and Diu shall stand terminated after the 31st January, 1962, provided that nothing in this section shall prohibit the Custodian at any time from re-employing in the service of the said branches any of the retrenched employees on such terms and conditions as he may deem fit.

Retrenchment of staff.

CHAPTER III

PROVISION IN RESPECT OF CAIXA ECONOMICA DE GOA

17. Notwithstanding anything to the contrary in any decree, law or other instrument, no person shall be required to deposit or to keep deposited any sum in the Caixa Economica de Goa.

No person to be required to make any deposit.

18. The Custodian shall discharge in full all the liabilities of the Caixa Economica de Goa:

Liabilities to be discharged in full.

Provided that no amount shall be payable under this section to a Portuguese national or to any person resident in any of the territories under Portuguese control unless such payment has been specifically authorised by the Central Government.

19. Notwithstanding anything to the contrary in any contract of service or any other instrument, the Custodian may, if he is satisfied that it is necessary so to do, terminate with the approval of the Central Government, the services of any of the employees of the

Retrenchment of staff.

Caixa Economica de Goa after giving to them one month's notice or one month's pay in lieu of such notice.

Terminal
benefits to
staff.

20. Save as otherwise provided in section 21, every employee shall, on the termination of his appointment, be entitled to any retiring pension or other benefits calculated in accordance with the rules, orders or other conditions of service which were applicable to him immediately before the appointed day:

Provided that if no pension or other benefit is admissible to any employee who is retrenched in accordance with such rules, orders or other conditions of service, there shall be paid to him a gratuity at the rate of fifteen days' pay for every year of service, subject to a maximum of one thousand rupees.

Provision in
relation to
superannua-
tion fund.

21. (1) As from the appointed day, no amount shall be credited to any superannuation fund and no recoveries for credit to any such fund shall be made from the employees without the permission of the Central Government.

(2) Having regard to the assets available in any superannuation fund, which was maintained for the benefit of the employees, the Central Government or if it so requires, the Custodian shall, with the assistance of an actuary or any other qualified expert, determine the extent to which and the manner in which the assets of the fund should be distributed among the beneficiaries, and notwithstanding any contract or other instrument or any right of the beneficiaries, express or implied, the said determination shall be final and binding on them, and the assets of the fund shall be distributed accordingly.

Residuary
power
in relation
to Caixa
Economica
de Goa.

22. The Central Government may, if it is necessary at any time so to do, direct that the books of account and affairs of the Caixa Economica de Goa shall be inspected by the Reserve Bank or by such other agency as may be determined by that Government, and that a report on the basis of such inspection shall be made and the Central Government may, after considering the said report,—

(i) prohibit the Custodian from receiving fresh deposits; or

(ii) direct the winding up of the affairs of the bank on such terms and conditions to be specified by that Government which shall, as far as practicable, be in consonance with the provisions relating to winding up of a banking company under the Banking Companies Act, 1949.

10 of 1949.

CHAPTER IV

MISCELLANEOUS

Certain
claims barr-
d.

23. (1) No person shall be entitled to make any demand against the Custodian or either of the Banks except to the extent provided for in this Regulation and no person shall have any right, whether in

contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Regulation.

(2) If before the appointed day any movable property was pledged or hypothecated to or left for safe custody with either of the Banks and if the said property was, on or before the appointed day, removed to any place outside India, the Custodian shall not be liable for the restoration of the said property or for any payment on account of the surplus or other value thereof unless the said property has been actually recovered by him:

Provided that if there is any loss in the value of, or damage to, the property between the appointed day and the date on which it is recovered by the Custodian, he shall not be liable on account of any such loss or damage.

(3) No suit or other legal proceeding shall lie against the Custodian or the Central Government for anything which is in good faith done or intended to be done in pursuance of the provisions of this Regulation.

24. If any difficulty arises in giving effect to any of the provisions of this Regulation, the Central Government may, by order, do anything not inconsistent with such provisions which may appear to it to be necessary for the purpose of removing the difficulty. Power to remove difficulty.

25. The decrees, rules or orders issued by the former Portuguese administration in India in relation to the Banco Nacional Ultramarino or the Caixa Economica de Goa shall as from the appointed day cease to be in force to the extent they are inconsistent with the provisions of this Regulation except as regards things done or omitted to be done before that day under the said decrees, rules or orders. Repeal.

26. Nothing in this Regulation shall be deemed to prejudice, alter or affect in any manner the right of the Custodian to recover on behalf of the branches in Goa, Daman and Diu of the Banco Nacional Ultramarino or of the Caixa Economica de Goa, as the case may be, any amounts due to the said branches or the said institution from the head office of the Banco Nacional Ultramarino in Lisbon or from the Government of Portugal. Saving.

S. RADHAKRISHNAN,

President.

R. C. S. SARKAR,

Secy. to the Govt. of India.

